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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,301	12/08/2003	Sheri Lynn Lee	SLI001	3627
28848	7590	08/21/2006	EXAMINER	
TOPE-MCKAY & ASSOCIATES 23852 PACIFIC COAST HIGHWAY #311 MALIBU, CA 90265			BRADEN, SHAWN M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/731,301	<b>Applicant(s)</b> LEE, SHERI LYNN	
	<b>Examiner</b> Shawn M. Braden	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.  
4a) Of the above claim(s) 8-12, 17-28 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13-16, 19-23, 29-32 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of claims 1-7,13-16,19-23,29-32,34 in the reply filed on 06/08/2006 is acknowledged. Claim 33, has been withdrawn by examiner for pertaining to a non-elected species.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7&23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether applicant is attempting to claim the apparatus independently as stated in claim 1 or the combination of the apparatus and the lingerie as stated in claim 7. Clarification is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7,13-16,19-23,29-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Phan (USPN 6,742,683).

With respect to claim 1, Phan shows a housing with an interior, an exterior, and a laundry opening therebetween; and a plurality of washing holes (20) in the housing, wherein the washing holes (20) pass from the interior to the exterior, whereby a piece of laundry can be inserted into the interior of the housing through the laundry opening, wherein, when placed within a washing machine, the piece of laundry receives protection while being washed while water and detergent pass through the plurality of washing holes (col. 5 ln. 25-33).

With respect to claim 2, Phan shows a lid (82) attached with the housing, whereby the lid covers the laundry opening, whereby the lid of the housing can be manipulated to expose the laundry opening and allow a piece of laundry to be inserted into the interior of the housing through the laundry opening.

With respect to claims 3&19, Phan discloses the housing is constructed of a material selected from a group consisting of plastic, rubber, and metal (col 11 ln. 35).

With respect to claims 4&20, Phan show the laundry protector has a three-dimensional shape and the three-dimensional shape is selected from a group consisting of a sphere, a polygon, an ellipsoid, and a cylindrical shape (fig. 1).

With respect to claims 5&21, Phan show the housing has a top portion and a flattened portion, whereby the flattened portion allows the housing to sit evenly atop a surface without rolling so that a user can easily insert the piece of laundry (fig. 12).

With respect to claims 6&22, Phan shows the laundry protector has a length and the length is more than approximately three inches and less than approximately fourteen inches (figs. 1-4).

With respect to claims 7&23 Phan discloses a brassier that has the structure and recitation of lingerie.

With respect to claims 13&29 Phan shows a base (126) for attaching with the housing, whereby the base prevents the laundry protector from rolling while inserting a piece of laundry into the interior of the housing. Examiner emphasizes that when the apparatus of Phan is in the open and accepting state the holder's two points touching the surface will prevent the holder from rolling (fig. 10).

With respect to claims 14&30 Phan shows the base (126) attaches with the housing using at least one item selected from a group consisting of a male/female screw system and a snap system (134,104).

With respect to claims 15&31, Phan shows the lid (127) is attached with the housing through a connector (128).

With respect to claims 16&32, the connector comprises a hinge (128) and a snap (104,134), where the lid (127) is attached with the housing with the hinge (128), thereby allowing the lid to be swung to an open position and a closed position, wherein, when in a closed position, the snap allows the lid to be securely fastened with the housing (fig. 10).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phan.

Phan discloses the claimed invention except for the lid and the connector are integrally formed as a lid-connector. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make these components integral, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Braden whose telephone number is (571)272-8026. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3727

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

smb

  
**JES F. PASCUA**  
**PRIMARY EXAMINER**